

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

DAWN COBB CARRIGAN and	)	
JANET GATES, individually and on	)	
behalf of all others similarly situated,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	CASE NO.: 2:17-CV-114-WKW
	)	[WO]
SOUTHEAST ALABAMA RURAL	)	
HEALTH ASSOCIATES;	)	
GREENWAY ASSOCIATES, LLC;	)	
GREENWAY EHS, INC.; SUNRISE	)	
TECHNOLOGY CONSULTANTS; and	)	
LEE INVESTMENT CONSULTANTS,	)	
LLC,	)	
	)	
Defendants.	)	

**ORDER**

Before the court is a Motion to Reopen Case and for an Order Staying the Effect of the Court’s Remand Order Pending Appeal (Doc. # 51), filed on September 29, 2017, by Defendants Greenway Health, LLC, and Greenway EHS, Inc. (the “Greenway Defendants”). Plaintiffs Dawn Cobb Carrigan and Janet Gates did not file a response to the motion, although they were given the opportunity to do so. (Doc. # 52.) For the reasons to follow, the motion is due to be denied as moot.

On September 12, 2017, this court entered a Memorandum Opinion and Order remanding this action to the Circuit Court of Pike County, Alabama, for lack of

subject-matter jurisdiction under the Class Action Fairness Act of 2005. *See* 28 U.S.C. §§ 1332(d)(11), 1453(b). (Doc. # 50.) The same date the Clerk of this Court furnished a copy of the remand order to the Clerk of the Circuit Court of Pike County. (Doc. # 50 (text entry).) On September 22, 2017, the Greenway Defendants requested permission from the Eleventh Circuit Court of Appeals to appeal this court's decision as provided in 28 U.S.C. § 1453(c)(1), and that request is pending in the circuit. On September 29, 2017, the Greenway Defendants filed the instant motion asking this court to reclaim jurisdiction over the case, reopen it, and stay it. Whether this court has jurisdiction to grant the relief requested is an issue of first impression in this circuit, and the lower courts are divided on the issue. *Compare Lafalier v. Cinnabar Serv. Co.*, No. 10-CV-0005-CVETLW, 2010 WL 1816377 (N.D. Okla. Apr. 30, 2010) ("The Court finds that it has the limited authority to reopen this case and stay its remand order, because appellate review of the Court's remand order is not barred by § 1447(d)."), *with In re Oxycontin Antitrust Litig.*, No. 08 CIV. 3380 SHS, 2011 WL 4801360 (S.D.N.Y. Oct. 6, 2011) ("Because the case has been remanded and mailed to the Kentucky state court, this Court is without jurisdiction to decide defendants' motion to stay," notwithstanding the pendency of a § 1453(c)(1) appeal).

On October 3, 2017, which was four days after the Greenway Defendants filed their motion asking this court to reopen and stay this action, the Circuit Court of Pike

County entered a stay of proceedings pending the Eleventh Circuit’s decision on the Greenway Defendants’ request to appeal this court’s Order remanding the action to state court. *Carrigan v. Se. Ala. Rural Health Assocs.*, CV-2017-000005.8 (Cir. Ct. Pike Cnty., Ala. Oct. 3, 2017) (Doc. # 12). The court takes judicial notice of the Circuit Court of Pike County’s October 3, 2017 Order. *See* Fed. R. Evid. 201 (governing judicial notice); *see also United States v. Jones*, 29 F.3d 1549, 1553 (11th Cir. 1994) (“[A] court may take notice of another court’s order . . . for the limited purpose of recognizing the ‘judicial act’ that the order represents . . .”).

The Greenway Defendants have obtained a stay of the state-court proceedings—the same relief they seek in this court—from the Circuit Court of Pike County, where the action is pending. Further relief from this court appears to be unnecessary. Moreover, given the unsettled jurisdictional issue and the fact that the Circuit Court of Pike County has stayed the action, this court in its discretion declines to rule on the merits of the motion and deems the motion moot. Accordingly, it is ORDERED that the Greenway Defendants’ Motion to Reopen Case and for an Order Staying the Effect of the Court’s Remand Order Pending Appeal (Doc. # 51) is DENIED as moot

DONE this 23rd day of October, 2017.

/s/ W. Keith Watkins  
CHIEF UNITED STATES DISTRICT JUDGE